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BEFORE THE ARIZONA CORPORATION COMMISSION -2 A 11: 54

WILLIAM A. MUNDELL
CHAIRMAN

Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION
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JUL 02 2001

MARC SPITZER
COMMISSIONER

DOCKETED BY

IN THE MATTER OF MIDVALE TELEPHONE
EXCHANGE, INC.'S APPLICATION FOR
AUTHORITY TO INCREASE RATES AND FOR
DISBURSEMENT FROM THE ARIZONA USF

T-02532A-00-0512

CITIZENS' POST-HEARING
BRIEF

Citizens Communications Company submits this post-hearing brief following the May 21, 2001 rate hearing. In its rate filing, Midvale Telephone Exchange requested authority from the Arizona Corporation Commission to provide Extended Area Service (EAS) between Midvale's Cascabel exchange and Qwest's Benson and San Manuel exchanges. Citizens intervened in this docket for the limited purpose of opposing Midvale's EAS proposal.¹ This brief focuses solely on the EAS issues. Citizens also joins in Qwest's closing brief.

I. BRIEF STATEMENT OF THE EAS ISSUES.

At hearing, Midvale presented little, if any, evidence supporting its EAS proposal. Midvale performed no socio-economic surveys or customer analyses to determine whether EAS is needed in Cascabel. Midvale didn't offer any customer petitions or call volume information supporting the company's EAS proposal. Remarkably, Midvale didn't even address, let alone rebut, Citizens', Qwest's or Staff's pre-filed testimony opposing EAS in Cascabel. As a result, Midvale failed to establish any "community of interest" between Cascabel and Benson/San

¹ Citizens intervened because the company is in the process of acquiring Qwest's Benson exchange and San Manuel exchange's Mammoth wire center.

1 Manuel warranting EAS. Even further, the evidence presented by Citizens, Qwest and Staff at
2 hearing clearly demonstrates that no community of interest exists due to low call volumes.

3 What's more, illegal arbitrage through EAS bridging is a prominent danger
4 associated with Midvale's EAS proposal. Citizens' and Qwest's undisputed testimony illustrates
5 the likelihood of illegal EAS bridging which has occurred under similar circumstances in other
6 jurisdictions. Finally, Qwest's Benson and San Manuel customers seldom call Cascabel and, as a
7 result, they would not benefit from Midvale's EAS proposal. Yet Midvale proposes that Qwest's
8 customers (Citizens' future customers) be forced to subsidize the costs of EAS for Cascabel.
9 The Commission should prevent that from happening.

10 As a matter of law and fact, the Commission should deny Midvale's EAS
11 proposal because it isn't supported by any substantial testimony or evidence in the record.

12 **II. THE FACTUAL RECORD DEMONSTRATES NO COMMUNITY OF INTEREST**
13 **SUPPORTING MIDVALE'S EAS PROPOSAL.**

14 Based on the virtually *undisputed* testimony and factual record on the EAS issues,
15 Midvale failed to demonstrate any "community of interest" justifying EAS in Cascabel. In fact,
16 based on the call volume data and testimony provided by Citizens, Qwest and Staff, the factual
17 record establishes that there is no community of interest between Cascabel and Benson/San
18 Manuel. The Commission should deny Midvale's EAS proposal for this reason alone.

19 To start, the testimony from Midvale's own witnesses (Lane Williams and Don
20 Reading) at hearing established that call volumes between Cascabel and Benson/San Manuel
21 were minimal and there was infrequent calling between Benson/San Manuel and Cascabel. See
22 Testimony of Lane Williams, 5/21/01 Hearing Transcript, pp. 37-38; Testimony of Don Reading,
23 5/21/01 Hearing Transcript, pp. 59-61. In this docket, Midvale didn't contest Citizens'
24 testimony and evidence on the call volume issues and lack of community of interest:

1 "Subscribers in Benson and Mammoth place too few calls to Cascabel and receive too
2 few for EAS to be of much benefit to them. According to information recently supplied
3 by Midvale, the 170 subscriber lines in Cascabel placed only 6.3 calls per line per month
4 to Benson and fewer than 3.5 per line per month to San Manuel. In terms of the number
5 of lines in Benson, this means that the typical account received a very small proportion of
a call per month from Cascabel. Even assuming all the calls from Cascabel to San
Manuel were destined for Mammoth, this call volume also means that the typical account
in Mammoth received a very small proportion of a call per month from Cascabel." See
Testimony of Curt Huttzell, docketed on 3/15/01, p. 7.

6 Midvale also didn't refute Qwest's testimony (via Starla Rook) or Staff's testimony (via Allen
7 Buckalew) on these issues. See Testimony of Starla Rook, pp. 5-8; Testimony of Allen
8 Buckalew, pp. 16-17.

9 Citizens', Qwest's and Staff's EAS testimony also went undisputed at hearing.

10 Midvale's witnesses did not file any rebuttal testimony in response to the EAS testimony of Curt
11 Huttzell, Starla Rook or Allen Buckalew. Midvale's Don Reading admitted that Midvale didn't
12 refute any opposing EAS testimony:

13 Q. In your rebuttal testimony, you didn't refute any of their opinions or
conclusions on the EAS issues, true?

14 A. Correct, I did not address that in my rebuttal...

15 Q. And as you stated before, you haven't developed any rebuttal testimony in
response to Staff, Citizens, and Qwest testimony opposing EAS, true?

16 A. True.

17 See May 21, 2001 hearing transcript, p. 67. Midvale's witnesses even acknowledged the
18 minimal call volume between Cascabel and Benson/San Manuel:

19 Q. You would agree that call volume data has pretty low volume of calls between
Cascabel and Benson and the Mammoth exchange?

20 A. Yes.

21 See Williams Testimony, 5/21/01 Hearing Transcript, p. 37. Mr. Williams didn't stop there:

22 Q. So the only thing we have to go on is the call volume data that you've provided in
response to data responses, true?

23 A. Yes.

24 Q. And that call volume data shows pretty low traffic between the exchanges they
are requesting the EAS for, correct?

1 A. True.

2 Id. at p. 38. In this docket, the factual record is clear that there is no community of
3 interest supporting EAS in Cascabel. At hearing, Midvale's witnesses--Don Reading and
4 Lane Williams--argued for EAS based upon some sort of contextual analysis for small
5 towns. But they did not rebut the EAS testimony offered by Citizens, Qwest and Staff;
6 and, Midvale didn't provide any call volume data, customer petitions or market studies
7 supporting its EAS proposal.

8 Further, the evidence also is undisputed that Cascabel subscribers are not unduly
9 burdened in placing long distance calls to Benson and San Manuel. In its EAS proposal and pre-
10 filed testimony, Midvale argued that Cascabel customers are unduly burdened in placing long
11 distance calls to Benson and San Manuel. At hearing, however, Midvale presented no evidence
12 supporting that argument. Instead, the undisputed evidence presented by Citizens establishes
13 that Cascabel customers aren't overly taxed in placing long distance calls to Benson and San
14 Manuel due to available toll calling plans:

15 "Given the recent information supplied by Midvale, it does not appear that Midvale's
16 Cascabel subscribers are unduly burdened in placing long-distance calls to Benson and
17 San Manuel. The average duration of a call from Cascabel to Benson is 3.8 minutes, and
18 the average duration of a call from Cascabel to San Manuel is less than 4.2 minutes.
 Even at the toll rate of [\$0.10] per minute, the average call from Cascabel to Benson
 would cost only [\$0.38], and the typical call from Cascabel to San Manuel would cost
 only [\$0.42]."

19 Huttsell Testimony, 3/15/01, p. 9.

20 Ultimately, the underlying factual record is clear that there is *no* community of
21 interest between Cascabel and San Manuel/Benson justifying EAS. Midvale did not even
22 present evidence of whether Cascabel customers want or need EAS. On this issue, Mr.
23 Williams' testimony speaks volumes:

24

- 1 Q. So as we're sitting here before us today, we have no customer petition or any
2 evidence from customers saying that EAS is something that they want for Benson,
3 Cascabel, and the San Manuel exchanges, true?
4 A. That's right.

5 See Williams Testimony, 5/21/01 Hearing Transcript, p. 39.

6 **III. MIDVALE'S EAS PROPOSAL SHOULD BE REJECTED DUE TO THE DANGER**
7 **OF ILLEGAL EAS BRIDGING.**

8 Next, the evidence is undisputed that Midvale's EAS proposal raises the specter
9 of illegal EAS bridging. Midvale's EAS request involves overlapping EAS areas in Cascabel
10 and invites illegal arbitrage through EAS bridging. Overlapping EAS areas encourage EAS
11 bridging that evades approved toll and access tariffs. Policing EAS bridging is difficult and
12 costly. In this case, if the Commission approves Midvale's EAS proposal, a bridger could
13 establish himself in Cascabel and forward calls from Benson to San Manuel and from San
14 Manuel to Benson. The situation gets even worse because Citizens and Qwest must file an
15 optional local calling plan involving San Manuel and Tucson as a condition of the recently
16 approved transfer of rural wire centers. If the Commission approves such a plan, an illegal EAS
17 bridger could forward calls between Benson/Cascabel and Tucson. See Huttshell Testimony,
18 3/15/01, pp. 5-6; Rook Testimony, pp. 5-7. At hearing, Midvale's witnesses flatly conceded the
19 possibility of EAS bridging. See Williams Testimony, 5/21/01 Hearing Transcript, pp. 34-35;
20 Reading Testimony, 5/21/01 Hearing Transcript, p. 62.

21 On this issue, it's important to understand the substantial likelihood of illegal
22 arbitrage if Midvale's EAS proposal is approved. As explained in Mr. Huttshell's testimony,
23 Citizens faced a similar EAS bridging situation in Montana. See Huttshell Testimony, 3/15/01, p.
24 7. Mr. Huttshell's testimony illustrates the real dangers of EAS bridging from Midvale's EAS
proposal. The Commission should deny Midvale's EAS proposal because illegal arbitrage
through EAS bridging is a strong probability that should be avoided at all costs.

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1 for a rulemaking to establish criteria and rules to evaluate EAS proposals.

2 RESPECTFULLY SUBMITTED this 2 day of July, 2001.

3 GALLAGHER & KENNEDY, P.A.

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